

**MATTER OF GERONIMO**  
**In Deportation Proceedings**

A-18924288

*Decided by Board March 5, 1971*

- (1) Determination as to the institution of deportation proceedings against a deportable alien lies within the province of the District Director. Where deportation proceedings have been instituted, it is not within the province of the special inquiry officer, nor the Board of Immigration Appeals on appeal, to review such action but to determine whether deportability is established by evidence which is clear, convincing and unequivocal.
- (2) Allegations of misconduct against Service personnel and respondent's former attorney made on appeal in deportation proceedings and based on matters outside the administrative record, should not be casually asserted but should be specified and stated under oath.

**CHARGE:**

Order: Act of 1952—Section 241 (a) (2) [8 U.S.C. 1251 (a) (2)]—Nonimmigrant visitor—remained longer than permitted.

This is an untimely appeal from a decision of a special inquiry officer, finding the respondent deportable on the above-stated charge and granting her the privilege of voluntary departure. We shall consider the case on certification under 8 CFR 2.1 (d).

Respondent is a 24-year-old unmarried female, native and citizen of the Philippines, who was admitted to the United States as a nonimmigrant visitor for pleasure on October 4, 1969 and has remained longer than permitted. At a deportation hearing on January 22, 1971, at which she was represented by counsel, she admitted the factual allegations of the order to show cause and conceded deportability. On the same day, the special inquiry officer granted her the privilege of departing voluntarily on or before February 22, 1971. Respondent thereafter retained present counsel, whose notice of appeal in her behalf, though dated January 29, 1971, was not filed until February 5, 1971.

In his notice of appeal and supporting brief, present counsel seeks reversal on the basis of factual allegations outside the ad-